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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NELSON, FREDA ANN	

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/891,337	GRANDE ET AL.	
	Examiner	Art Unit	
	Freda A. Nelson	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,6,8,10,11,14,16,17 and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-4, 6, 8, 10-11, 14, 16-17, and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The amendment received on February 20, 2006 is acknowledged and entered. Claims 1, 3, 6, 8, 10, 14, 16, and 19 have been amended. Claims 2, 5, 7, 9, 12-13, 15, and 18 and have been canceled. No claims have been added. Claims 1, 3-4, 6, 8, 10-11, 14, 16-17, and 19 are currently pending.

Response to Amendment and Arguments

Applicant's arguments filed February 17, 2006 have been fully considered but they are not persuasive.

In response to the applicant's arguments that Saari et al. nor Hernandez disclose "writing a high priority header to each of a plurality of packets originating from a computer system corresponding to the network session between the session start time and the session stop time", the examiner respectfully disagrees. Saari et al. disclose that *"depending on a particular application, the user may require a real-time (rt) service class 164, which may be set by the user directly or, typically, by the user's application or communications software; if the user requires a real-time connection, each cell transmitted from the user's UNI will have the service class bit in the cell header set to indicate that the payload of the cell contains real-time information 170" (see col. 12, lines 32-53).*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1, 3-4, 6, 8, 10-11, 16-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saari et al. (Patent Number 6,338,046) in view of Hernandez et al. (Patent Number 6,208,977).

As for claim 1, Saari et al. disclose a computer-implemented method of providing dynamic network pricing data, said method comprising:

calculating, by the network pricing computer, a network usage price in response to the determination;

applying the network usage price to a network session (col. 2, line 2-35; col. 5, lines 46-55),

wherein the applying includes:

recording a session start time and the network usage price for the network session (col. 5 lines 33-45; FIG. 4);

identifying a session stop time for the network session (col. 5 lines 33-45);

writing a high priority header to each of a plurality of packets originating from a computer system corresponding to the network session between the session start time and the session stop time (FIG. 2);

determining an elapsed session time (col. 5, lines 33-45); and

determining an elapsed session time (col. 5 lines 33-45); and

calculating a session billing amount corresponding to the elapsed session time and the network usage price (col. 5 lines 33-45; FIG. 2).

Saari et al. does not disclose determining, by a network pricing computer, an amount of traffic on a computer network, wherein the determining includes requesting traffic data from one or more network devices and receiving the requested traffic data in response to the requests. Hernandez et al. disclose that an administrator can request that the collector and/or billing subsystems 37, 38 recalculate billing prices to track temporal changes in nominal utilizations S_{12}-S_{22} (col. 7, lines 25-27; FIGS. 1B and 2A-2B); the collection units 32-36 periodically send their accumulated traffic data to a collector subsystem 37, i.e., a designated computer having a network Interface (col., 3, lines 46-48); and the collector subsystem 37 uses the traffic data to determine the average utilization S of each link, which is the measured used bandwidth over a period of time divided by the

full and the collection subsystem 37 uses the data to determine the prices for transmitting data (col. 3, lines 46-56; FIGS. 1B and 2A-2B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Saari et al. to include the feature of Hernandez et al. in order to ensure data accuracy, eliminate duplication, and determine source and destination users.

As for claim 3, Saari et al. disclose the method computer-implemented as described claim 1 wherein the network devices are selected from the group consisting of routers, switches, and computer systems (col. 17, lines 4-16; FIG. 1).

As for claim 4, Saari et al. disclose the method as described in claim I further comprising:

identifying a client computer system corresponding to the network session (col. 7, lines 19-27); and

sending the network usage price to the client computer system (col. 7, lines 19-27).

As for claim 6, Saari et al. disclose the method as described in claim 5 further comprising:

storing one or more session billing amounts for one or more users (col. 7, lines 19-27);

calculating an invoice total for each of the users based on each user's corresponding session billing amounts(col. 7, lines 19-27); and

preparing an invoice for each of the users, the invoice including each user's invoice total (col. 7, lines 19-27).

As for claim 7, Saari et al. disclose the method as described claim 5 further comprising:

writing a high priority header to one or more packets originating from a computer system corresponding the network session between the session start time and the session stop time (FIG. 2).

As for claim 8, Saari et al. disclose an information handling system comprising:

one or more processors (FIG. 1);

a memory accessible by the processors (FIG. 1)`;

a network interface connecting the information handling system to a computer network (FIG. 1); and

a network pricing tool to provide dynamic network pricing data, the network pricing tool including:

means for determining an amount of traffic on computer network (col. 2, lines 2-35; col. 4, line 3 through col. 5, line 55);

means for calculating a network usage price in response to the determination (col. 2, lines 2-35; col. 4, line 3 through col. 5, line 55);

means for applying the network usage price to network session (col. 5, lines 46-55), wherein the means for applying includes:

means for recording a session start time and the network usage price for the network session (col. 5 lines 33-45; FIG. 4);

means for identifying a session stop time for the network session (col. 5 lines 33-45; FIG. 4);

means for writing a high priority header one or more packets originating from a computer system corresponding to the network session between the session start time and the session stop time (FIG. 2);

means for determining an elapsed session time (col. 5 lines 33-45; FIG. 4); and

means for calculating a session billing amount corresponding to the elapsed session time and the network usage price (col. 5 lines 33-45; FIG. 4).

Saari et al. does not disclose that the determining includes requesting traffic data from one or more network devices and receiving the requested traffic data in response to the requests. Hernandez et al. disclose that an administrator can request that the collector and/or billing subsystems 37, 38 recalculate billing prices to track temporal changes in nominal utilizations S_{12}-S_{22} (col. 7, lines 25-27; FIGS. 1B and 2A-2B); the collection units 32-36 periodically send their accumulated traffic data to a collector subsystem 37, i.e., a designated computer having a network Interface (col., 3, lines 46-48); and the collector subsystem 37 uses the traffic data to determine the average utilization S of each link, which is the measured used bandwidth over a period of time divided by the full and the collection subsystem 37 uses the data to determine the prices for transmitting data (col. 3, lines 46-56; FIGS. 1B and 2A-2B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Saari et al. to include the feature of Hernandez et al. in order to ensure data accuracy, eliminate duplication, and determine source and destination users.

As for claim 10, Saari et al. disclose the information handling system as described in claim 8 wherein the network devices are selected from the group consisting of routers, switches, and computer systems (col. 17, lines 4-16; FIG. 1).

As for claim 11, Saari et al. disclose the information handling system as described in claim 8 further comprising:

means for identifying a client computer system corresponding to the network session (col. 7, lines 19-27); and

means for sending the network usage price to the client computer system (col. 7, lines 19-27).

As for claim 14, Saari et al. disclose a computer program product stored on a computer operable media for providing dynamic network pricing, said computer program product comprising:

determining an amount of traffic on computer network, wherein the determining includes requesting traffic data from one or more network devices and receiving the requested traffic data in response to the requests (col. 2, lines 2-35; col. 4, line 3 through col. 5, line 55);

calculating a network usage price in response the determination (col. 2, lines 2-35; col. 4, line 3 through col. 5, line 55);

applying the network usage price to network session (col. 5, lines 46-55), wherein the applying includes:

recording a session start time and the network usage price for the network session (col. 5, lines 33-45; FIG. 4);

identifying a session stop time for the network session (col. 5, lines 33-45);

writing a high priority header one or more packets originating from a computer system corresponding to the network session between the session start time and the session stop time (FIG. 2);

determining an elapsed session time (col. 5, lines 33-45); and

calculating a session billing amount corresponding to the elapsed session time and the network usage price (col. 5, lines 33-45; FIG. 2).

Saari et al. does not disclose that the determining includes requesting traffic data from one or more network devices and receiving the requested traffic data in response to the requests. Hernandez et al. disclose that an administrator can request that the collector and/or billing subsystems 37, 38 recalculate billing prices to track temporal changes in nominal utilizations S_{12}-S_{22} (col. 7, lines 25-27; FIGS. 1B and 2A-2B); the collection units 32-36 periodically send their accumulated traffic data to a collector subsystem 37, i.e., a designated computer having a network Interface (col., 3, lines 46-48); and the collector subsystem 37 uses the traffic data to determine the average utilization S of each link, which is the measured used bandwidth over a period of time divided by the full and the collection subsystem 37 uses the data to determine the prices for transmitting data (col. 3, lines 46-56; FIGS. 1B and 2A-2B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Saari et al. to include the feature of Hernandez et al. in order to ensure data accuracy, eliminate duplication, and determine source and destination users.

As for claim 16, Saari et al. disclose the computer program product as described in claim 14 wherein the network devices are selected from the group consisting of routers, switches, and computer systems (col. 17, lines 4-16; FIG. 1).

As for claim 17, Saari et al. disclose the computer program product as described in claim 14 further comprising:

means for identifying a client computer system corresponding the network session (col. 7, lines 19-27); and
means for sending the network usage price to the client computer system (col. 7, lines 19-27).

As for claim 19, Saari et al. disclose the computer program product as described in claim 14 further comprising:
means for storing one or more session billing amounts for one or more users (col. 7, lines 19-27);
means for calculating an invoice total for each of the users based on each user's corresponding session billing amounts (col. 7, lines 19-27); and
means for preparing an invoice for each of the users, the invoice including each user's invoice total (col. 7, lines 19-27).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 05/01/2006

Freda Nelson

THOMAS A. DIXON
PRIMARY EXAMINER